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**STATE BOARD OF EQUALIZATION**

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May 03, 1957

Attention:

Gentlemen:

This is in reply to your letter of May 10 in which you inquire as to any basis for exemption from sales tax of sales to servicemen who take delivery of the vehicle in this State but drive it from the state on a drive away permit and register it in another state.

There is no exemption from the sales tax under this type of a situation. The Soldiers' and Sailors' Civil Relief Act does not apply, because in California the sales tax is a tax upon the retailer and, according, is not legally prohibited by the Soldiers' and Sailors' Civil Relief Act as a tax upon the serviceman. When the vehicle is delivered to the purchaser in this State the sale is completed insofar as the sales tax is concerned and there is no provision in the law which exempts the retailer from his tax liability even though the purchaser subsequently transported the vehicle outside the State. This is true as respects any tangible personal property and not vehicles alone.

In order to obtain exemption, it would be necessary for you to contract with your customer to deliver the vehicle to him at such point. Of course, your customer could order the vehicle from you taking delivery at the factory or other point outside this State without you being liable for sales tax.

For you further information, we are enclosing a copy of sales and used tax Ruling 55, "Interstate and Foreign Commerce".

Very truly yours,

E. H. Stetson  
Tax Counsel

EHS:ds  
Enclosure